

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

DAKOTA COTTENGIM,

Plaintiff,

v.

CHRISTOPHER BACON,

Defendant.

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No. 1:21-CV-84-SNLJ

MEMORANDUM AND ORDER

This matter is before the Court upon plaintiff Dakota Cottengim's Motion for the Appointment of Counsel. (ECF No. 14). The motion will be denied without prejudice.

A *pro se* litigant has "neither a constitutional nor a statutory right to appointed counsel in civil cases." *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018) (citing *Phillips v. Jasper Cty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006)). A district court may appoint counsel in a civil case if it is "convinced that an indigent plaintiff has stated a non-frivolous claim . . . and where the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel." *Id.* (citing *Johnson v. Williams*, 788 F.2d 1319, 1322 (8th Cir. 1986)). When determining whether to appoint counsel for an indigent litigant, a court considers relevant factors such as the factual complexity of the issues, the litigant's ability to investigate the facts and present his or her claims, the existence of conflicting testimony, and the complexity of the legal arguments. *Id.* (citing *Phillips*, 437 F.3d at 794).

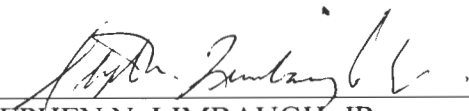
Based on the record before the Court, there is no indication that the appointment of counsel is warranted at this time. It appears this case involves straightforward questions of law and fact, and there is no indication that plaintiff will be unable to investigate the facts and present

his claims. Additionally, plaintiff filed a complaint that stated a plausible excessive force claim against the defendant, and he filed a timely and comprehensible response to defendant's motion to dismiss. However, recognizing that circumstances may change, the Court will deny the motion for appointment of counsel without prejudice, and will entertain future such motions, if appropriate, as the case progresses.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's Motion for the Appointment of Counsel (ECF No. 14) is **DENIED** without prejudice.

Dated this 6th day of December, 2021.



STEPHEN N. LIMBAUGH, JR.
SENIOR UNITED STATES DISTRICT JUDGE